

AGENDA
Regular Session of the City Council of the City of Saint Charles, Missouri
Council Chambers - 4th floor - City Hall - 200 North Second Street
Tuesday, December 1, 2009
7:00 P.M.

1. ROLL CALL
2. INVOCATION AND PLEDGE OF ALLEGIANCE
3. PUBLIC HEARINGS
 - A. Budget for Fiscal Year 2010 (*Council Bill 10061*)
 - B. Case No. CU-39-09. (Society of St. Vincent de Paul Archdiocesan Council of St. Louis). An application for a Conditional Use Permit from §156.033(C)(1)(g) for Secondhand Sales within the C-2 General Business District, specifically to operate a consignment and retail sales store at 1051-1083 Regency Parkway. The subject property is 4.83 acres and is located in Ward 6. (*RCA Attached*)
 - C. Case No. CU-40-09. (Amy Ludwig) An application for a Conditional Use Permit from §156.040(C)(4) within the FHCD Frenchtown Historic Commercial District for a Lecture Hall at 825 North Second Street, specifically to open a lecture hall in association with a museum and storytelling facility. The subject property is 0.09 acres and is located in Ward 1. (*Tabled at Planning & Zoning; therefore, the Public Hearing should be tabled until January 5, 2010*)
 - D. Case No. CU-41-09. (Nick Serra) An application for a Conditional Use Permit from §156.036(D)(1)(a) within the I-2 Heavy Industrial District for a Storage, Sales & Service of Construction Equipment (including vehicles) business at 3421 New Town Boulevard (a.k.a. 525 Airport Rd). The subject property is 1.00 acres and is located in Ward 8. (*Tabled at Planning & Zoning; therefore, the Public Hearing should be tabled until January 5, 2010*)
 - E. Case No. CU-15-08. (Dave's Auto Restoration/Crabtree Family Partnership) An application for a revision to a previously approved Conditional Use Permit from §156.033(C)(1)(e) within the C-2 General Business District, specifically to extend the deadline for required parking lot improvements for an Automotive Repair and Body Work Facility at 2239 North Third Street. The subject property is 0.42 acres and is located in Ward 1. . (*RCA Attached*)
 - F. Case No. Z-18-09. (William & Bertha Massey) An application to rezone a parcel of land in the process of annexing into the City. The property is located at 1011 Meadow Lane Lot #2 (Id # 6-0011-S034-00-7). The applicant is requesting to rezone the property from the County R-1E Single-Family Residential to the City C-3 Highway Business District. The property contains approximately 0.13 acres and will be located in Ward 6 upon annexation. (*Tabled at Planning & Zoning; therefore, the Public Hearing should be tabled until January 5, 2010*)
 - G. Case No. Z-19-09. (Michael Myers) An application to rezone a tract of land from the R-1E Single-Family District to the R-2 Two-Family Residential District. The 0.12 acre parcel is known as 2410 North Eighth Street and is located in Ward 1. Three (3) variance requests relative to this rezoning application have been submitted to the St. Charles Board of Adjustment for review on Monday, November 2, 2009. (*Withdrawn by Applicant*) (*RCA Attached*)

- H. Case. No. DR-08-09. An ordinance amending Sections 156.032-156.036, Sections 156.030, 156.117, 156.119, 156.281, 156.503 and creating new Sections 156.190-156.199 of Chapter 156 of the St. Charles Code of Ordinances (Zoning Code) by including provisions for a Green Point Rating System and site sustainability enhancements (*Council Bill 10076*)

4. RESOLUTIONS/AWARDS/PROCLAMATIONS

5. PUBLIC COMMENT

- A. Reading of Written Petitions, Memorials and Remonstrances
B. Public Comment Relative to Agenda Items
C. Public Comment Relative to City Issues

NOTE: To address the Council, please complete a speaker card and present to the City Clerk prior to the meeting.

6. BILLS FOR FINAL PASSAGE

Bill 10056 (*Supplemental RCA*) (*To be Held by Sponsor Pending Completion of Budget Discussions*)

An Ordinance Authorizing Renewal of a Contract with Group Health Plan (GHP) to Provide a Self-Funded Medical Insurance and Prescription Drug Program to the Mayor, Council, All Full-Time Employees and Their Eligible Dependents, Retirees and Eligible Spouses for Plan Year 2010 (from February 1, 2010 Through January 31, 2011) in an Amount Not to Exceed \$593,572.00 (*Sponsor. Larry Muench*)

Bill 10058

An Ordinance Amending Chapter 156 of the Code of Ordinances of the City of St. Charles, Missouri by Amending Section 156.705 Pertaining to Street Banner Signs (*Sponsor. Richard Veit*)

Bill 10059

An Ordinance Amending Schedule II, Subsection (A) of Chapter 78 of the Code of Ordinances by Establishing Parking Restrictions Along a Portion of South Seventh Street (*Sponsors. Erv Ermeling, Larry Muench, Michael Klinghammer, Jerry Reese, Ron Stivison*)

Bill 10060

An Ordinance Amending Chapter 96 of the Code of Ordinances of the City of St. Charles, Missouri by Creating a New Section To Be Known As Section 96.12 Prohibiting the Spraying or Discharge of Pesticides on Property of Another (*Sponsor. Bob Kneemiller*)

Bill 10061 (*To be Held by Sponsor Pending Completion of Budget Discussions*)

An Ordinance Adopting a Budget for the City for the Period from January 1, 2010 to December 31, 2010, and Appropriating Money in the City Treasury to Pay for the Cost of Operating the City Government During That Period in Accordance with the Budget (*Sponsor. Larry Muench*)

Bill 10062 (To Be Held Pending Public Hearing on December 15, 2009)

An Ordinance Amending Section 156.253 of the Code of Ordinances of the City of St. Charles, Missouri Pertaining to Reconsideration of Applications for Amendment, Supplement or Change to the Zoning Code *(Sponsor: Laurie Feldman)*

Bill 10063

An Ordinance Repealing Ordinance No. 09-95 and Enacting a New Ordinance to Adopt Positions, Salary, Wages and Other Compensation for Employees; Reclassifying the Community Relations Specialist Position and Changing the Job Title *(Sponsor: Larry Muench)*

Bill 10064

An Ordinance Amending Ordinance Number 08-270 by Amending Certain Revenue, Expenditure, and Fund Balance Accounts for the Budget for the Fiscal Year 2009 (Budget Amendment #4). *(Sponsor: Larry Muench)*

Bill 10065 (To be Held by Sponsor Pending Completion of Budget Discussions)

An Ordinance Authorizing a Contract with Essex Dental Benefits, Inc. to Provide the Mayor, City Council Members, All Full-Time Employees and Their Eligible Dependents, Retirees and Eligible Spouses With a Basic and Buy Up Dental Program for the Period February 1, 2010 through January 31, 2011 in an Amount Not to Exceed \$347,000.000 *(Sponsor: Larry Muench)*

Bill 10066

An Ordinance Approving the Road Dedication and Easement Plat for Chateau Country Club *(Sponsor: Laurie Feldman)*

Bill 10067

An Ordinance Approving the Record Plat for Hemstead Cottage Villas Garages, a Subdivision of the City of Saint Charles, Missouri *(Sponsor: Michael Klinghammer)*

Bill 10068

An Ordinance Authorizing a Contract with SystemAire, Inc. for the St. Charles City Hall HVAC Upgrade in an Amount Not to Exceed \$222,330.00 *(Sponsor: Larry Muench)*

7. **BILLS FOR INTRODUCTION**

Bill 10069

An Ordinance Authorizing Supplemental Agreement No. 4 to the Contract with Dave Kolb Grading, Inc. for the Pearl Ridge Storm Sewer Extension Project in an Amount of \$28,560.00, for a Total Amount Not to Exceed \$1,089,214.00 *(Sponsor: Laurie Feldman)*

Bill 10070

An Ordinance Authorizing a Funding Agreement By and Between ACF Industries, The Goodyear Tire & Rubber Company, Mallinckrodt Inc., a Delaware Corporation, Pharmacia Corporation, Findett Real Estate Corporation and the City of St. Charles, Missouri for Funding of the Volatile Organic Compounds (VOC) Design Work by Jacobs Engineering *(Sponsor: Michael Klinghammer)*

Bill 10071

An Ordinance Authorizing Change Order No. 2 to the Contract with TGB, Inc. for the Construction of the Second Street Water Main Project in an Amount of \$154,950.96, for a Total Amount Not to Exceed \$1,031,727.76 (*Sponsor: Michael Klinghammer*)

Bill 10072

An Ordinance Authorizing a Contract with R.V. Wagner, Inc. for the Repair of the Boone's Lick Box Culvert in an Amount Not to Exceed \$178,320.00 (*Sponsor: Michael Klinghammer*)

Bill 10073

An Ordinance Authorizing a Contract with Tap Utilities, LLC for the Thomas Avenue Storm Sewer Project in an Amount Not to Exceed \$393,722.00 (*Sponsor: Michael Klinghammer*)

Bill 10074

An Ordinance Authorizing a Pipeline License Agreement with the Missouri Department of Natural Resources for the Construction, Maintenance, Operation and Repair of One Twenty Inch (20") and One Sixteen Inch (16") Sanitary Sewage Pipeline Crossing the Right of Way for the KATY Trail State Park (*Sponsor: Richard Veit*)

Bill 10075

An Ordinance Authorizing a Contract with N.B. West Contracting Company for the Construction of State Route 94 & Zumbuhl Road/Friedens Road Improvements Project in an Amount Not to Exceed \$492,313.67 (*Sponsors: Laurie Feldman and Bob Kneemiller*)

Bill 10076

An Ordinance Amending Chapters 150 and 156 of the Code of Ordinances by Amending Sections 150.085, 156.030, 156.032, 156.033, 156.034, 156.035, 156.036, 156.117, 156.119, 156.281 and 156.503 and Creating a New Subchapter Consisting of Four New Sections to be known as Sections 156.190, 156.191, 156.192 and 156.193 Pertaining to a Green Point Rating System and Establishing and Approving a Green Point Rating System Guide (*Sponsors: Laurie Feldman and Michael Klinghammer*)

Bill 10077

An Ordinance Authorizing a Contract with Arthur J. Gallagher Risk Management Services, Inc. to Place Various Lines of Insurance Coverage and Third Party Administration Services in an Amount Not to Exceed \$757,117.00 (*Sponsor: Larry Muench*)

8. ITEMS FOR DISCUSSION AND/OR COUNCIL ACTION

9. CONSENT AGENDA

A. Approval of Council Minutes

1. Regular Council Meeting of November 17, 2009
2. Public Hearing of November 17, 2009

- B. Approval of Council Committee Reports
 - 1. Approval of Council Committee Minutes
 - a. Council Work Session of November 17, 2009
 - 2. Approval of Council Committee Motions/Actions/Recommendations
 - a. Council Work Session of November 17, 2009 *(None)*
- C. Receipt of Reports from Boards, Commissions or Committees
 - 1. Senior Citizen Advisory Commission Meeting of September 15, 2009
 - a. Motion to Accept Invitation of Allied Waste to Tour the Recycling Center in Earth City on September 22, 2009
 - b. Motion to Authorize councilmember Jerry Reese to Invite a U.S. Congressperson to Conduct a Public Forum in January 2010 Relative to the National Health Care Legislation Being Considered by Congress
 - 2. Senior Citizen Advisory Commission Meeting of October 20, 2009
 - a. Motion to Declare a Moratorium on Additional Community Workshops until an Issue Arises Deserving such Attention
 - b. Motion to Discuss Council Bill 10013 Relative to Utility Tax Rebate at the November Commission Meeting
 - 3. Citizens with Disabilities Advisory Board Meeting of October 28, 2009
 - 4. St. Charles Park & Recreation Board Meeting of September 2, 2009
 - 5. St. Charles Park & Recreation Board Work Session of October 7, 2009
 - 6. St. Charles Park & Recreation Board Meeting of October 21, 2009
 - 7. Arts and Culture Commission Meeting of October 7, 2009
 - a. Motion to Approve the Following:
 - i. Grant Funding for The Big Read - \$5,000
 - ii. Disbursement of Remaining \$200 to Frenchtown Friday Nigh Flicks
 - iii. Reception for Grant Recipients - \$1,000
 - 8. July 4 Celebration Committee Meeting of July 22, 2009
 - 9. Board of Adjustment Meeting of November 2, 2009
- D. Receipt of Reports of the Director of Administration
 - 1. Request the City Council to Authorize the Creation of a Position to be Known as Police Services Officer and Delete one of the Authorized Police Service Technician Positions
- E. Approval of Contracts and Easements from \$30,001 - \$99,999
 - 1. Change Order No. 2 with All Type Grading and Excavating, Inc. for the West Adams Phase 2 Storm Sewer Project
 - 2. Contract with Adecco Engineering & Technical USA for Temporary Staffing in the Information Technology Department in an Amount not to Exceed \$66,882.00
- F. Preliminary Plats
 - None
- G. Miscellaneous
 - 1. Approval of Street Banner Sign Permit for SSM St. Joseph Health Center

2. Approval of Amendment to Council Rule 13(A) Relative to Council Bills Requested by Councilmembers
 3. Update and Status Report on the Emergency Creek Projects
 4. Approval of Amendment to the Development Plan and Regulating Plan for the Plaza at Noah's Ark Project (Streets of St. Charles)
 5. Approval of Arts & Culture Commission Expenditures
 - a. Fife and Drum Corps - \$5,000
10. ITEMS REMOVED FROM CONSENT AGENDA
11. REPORT OF THE MAYOR
 A. Written and/or Verbal Messages from the Mayor
12. ANNOUNCEMENTS FROM COUNCILMEMBERS/MISCELLANEOUS
 A. Written and/or Verbal Messages from the Councilmembers
13. EMERGENCY ORDINANCES
14. TABLED BILLS/PUBLIC HEARINGS
- Bill 10013 (Amended)**
 An Ordinance Amending Chapter 113 of the Code of Ordinances of the City of St. Charles, Missouri by Amending Sections 113.02, 113.03, 113.15, 113.19, 113.30, 113.35 and 113.40 to Reduce the License Tax for Electricity, Gas and Telephone; Eliminate the Refund of License Fees to Elderly Residents; and Provide Effective Dates Thereof.
(Sponsors. Dave Beckering and Richard Veit)) (Tabled at the September 1, 2009, Regular Council Meeting)
15. APPROVAL OF CLOSED MINUTES
16. CLOSED SESSION, if requested, relative to:
- A. Legal actions, causes of action, or litigation (RSMo 610.021.1)
 - B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration therefor (RSMo 610.021.2)
 - C. Hiring, firing, disciplining or promoting of particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021.3)
 - D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021.9)
 - E. Sealed proposals and related documents or any documents related to a negotiated contract (RSMo 610.021.12)

Posted: Wednesday, November 25, 2009 - 5.00 p.m.

RCA FORM (OFFICE USE ONLY)

Bill # N/A

MEETING/DATE: 12/01/09

Regular(X) Special() Comm. of Whole()

ATTACHMENT: YES(X) NO()

Report(X) Resolution() Ordinance()

Request for Council Action

Ward # 6

Description: *Public Hearing: Conditional Use Permit Case No. CU-39-09:*
Approval of a conditional use permit for Secondhand Sales within the C-2 General Business District, specifically to operate a consignment and retail sales store at 1051-1083 Regency Parkway.

Recommendation: Staff -- Approve(X) Disapprove()
 Board/Committee/Commission -- Approve (X) Disapprove ()

Summary:

The applicant is proposing to open a consignment and retail sales store at 1069 Regency Parkway within the C-2 General Business District. The proposed units are located within the same strip center as Dollar Tree and The Tan Co. This request is due to the business relocating from a smaller Droste Road location to approximately seventy-five hundred square feet (7548 sq. ft.) of floor area. The proposed hours of operation are Monday through Saturday 10:00 a.m. to 9:00 p.m., with the potential to be open on Sundays.

The existing strip center provides sufficient parking for a multitude of retail, restaurant and business uses; however, the existing center is predominantly vacant. The business will have access to the structure from the rear building as depicted in the attached building plan layout and any major deliveries will take place in this area of the development.

The Planning and Zoning Commission held a public hearing on this conditional use application on November 16, 2009. The applicant spoke in favor of the application. After closing the public hearing, the Commission unanimously voted to approve the conditional use permit and to forward the application to the City Council with a favorable recommendation. The approval is subject to five (5) conditions.

- STAFF RECOMMENDATION:

As noted above, Staff and the Planning and Zoning Commission have recommended approval subject to five (5) conditions. The conditions are as follows:

- 1. The conditional use permit is issued for the property at 1069 Regency Parkway only (encompasses 3 units of Regency Square) and is not transferable to another location.**
- 2. No outdoor display of merchandise is permitted.**
- 3. The hours of operation are Monday through Sunday 10:00 a.m. to 9:00 p.m.**

4. **Non-compliance with any of the building codes, property maintenance codes, fire codes or conditions of this approval is grounds for revocation of the conditional use approval.**
5. **The applicant shall post signage depicting permitted hours of drop-off and the availability of a pick-up service with the statement that goods shall not be left outdoors during non-business hours.**

Budget Impact: (revenue generated, estimated cost, CIP item, etc.) N/A

Account #

RCA prepared by: David Gipson Dept. Director JB Director of Admin M. L. P. A

O:\AGENDA\AGENDA\120109\CU-39-09 1069 Regency Pkwy RCA.doc

11/19/09



**STAFF REPORT
CONDITIONAL USE NO. CU-39-09
SECONDHAND RETAIL SALES
1069 REGENCY PARKWAY**

NOVEMBER 16, 2009

APPLICANT: Society of St. Vincent de Paul Archdiocesan Council of St. Louis, a Missouri benevolent corporation
100 N. Jefferson Ave.
St. Louis, MO 63103

REPRESENTATIVE: same

ADDRESS/LOCATION: 1069 Regency Parkway
Ward 6

ZONING: C-2 General Business District

PROPOSED USE: Secondhand Retail Sales

BACKGROUND

The applicant is proposing to open a consignment and retail sales store at 1069 Regency Parkway within the C-2 General Business District. The proposed units are located within the same strip center as Dollar Tree and The Tan Co. This request is due to the business relocating from a smaller Droste Road location to approximately seventy-five hundred square feet (7548 sq. ft.) of floor area. The proposed hours of operation are Monday through Saturday 10:00 a.m. to 9:00 p.m., with the potential to be open on Sundays. Staff has provided a condition of approval that lists the store hours for Monday through Sunday to cover the possible change.

The existing strip center provides sufficient parking for a multitude of retail, restaurant and business uses; however, the existing center is predominantly vacant. The business will have access to the structure from the rear building as depicted in the attached building plan layout and any major deliveries will take place in this area of the development.

Consistency with Comprehensive Plan

The St. Charles Comprehensive Plan adopted in 2002 recommends that land use decisions be based on a project's location and compatibility with surrounding development. The Comprehensive Plan identifies 14 activity centers in the city, locations characterized by elevated

levels of development, density and activity. The activity centers are the most prominent, visible and intensely developed locations in the city. The plan recommends that development should gradually decrease in density as distance from an activity center increases. The activity centers should be surrounded by land uses that gradually decrease in levels of activity, traffic and density. Proposed new uses should be judged based upon its distance from the nearest activity center, its compatibility with what surrounds it, and whether the level of development it will generate contributes to a gradual decline in density or acts counter to that goal.

Section 156.247 of the City Code outlines standards of review for the conditional use application. The standards are as follows:

- a) How the proposed conditional use (the use in general) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- b) Whether the proposed conditional use (in its proposed location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- c) Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, results in a substantial or undue adverse impact on the adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the Zoning Ordinance, Comprehensive Plan, or any other plan, program, or ordinance adopted. How the proposed co, or under consideration pursuant to official notice by the city.
- d) Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property as directed by the Comprehensive Plan.
- e) Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
- f) Whether the public benefits of the proposed conditional use outweigh the potential adverse impacts of the proposed conditional use as identified above, after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner and/or City Staff to ameliorate such impacts.

Furthermore, the City Code allows the Planning and Zoning Commission to recommend conditions of approval to protect surrounding properties, as well as to give consideration with respect to location and site plan in the recommendations.

Staff Recommendation

The proposed use will be located in a general commercial area that has a mixture of restaurant and retail uses immediately adjacent to the proposed location. Also, the new use will occupy a large amount vacant commercial storefront in a busy area of the City. The Department of Community Development finds the use to be appropriate for this location and recommends that the conditional use permit be approved subject to the following conditions:

1. The conditional use permit is issued for the property at 1069 Regency Parkway only (encompasses 3 units of Regency Square) and is not transferable to another location.
2. No outdoor display of merchandise is permitted.
3. The hours of operation are Monday through Sunday 10:00 a.m. to 9:00 p.m.
4. Non-compliance with any of the building codes, property maintenance codes, fire codes or conditions of this approval is grounds for revocation of the conditional use approval.

Recommended Motion

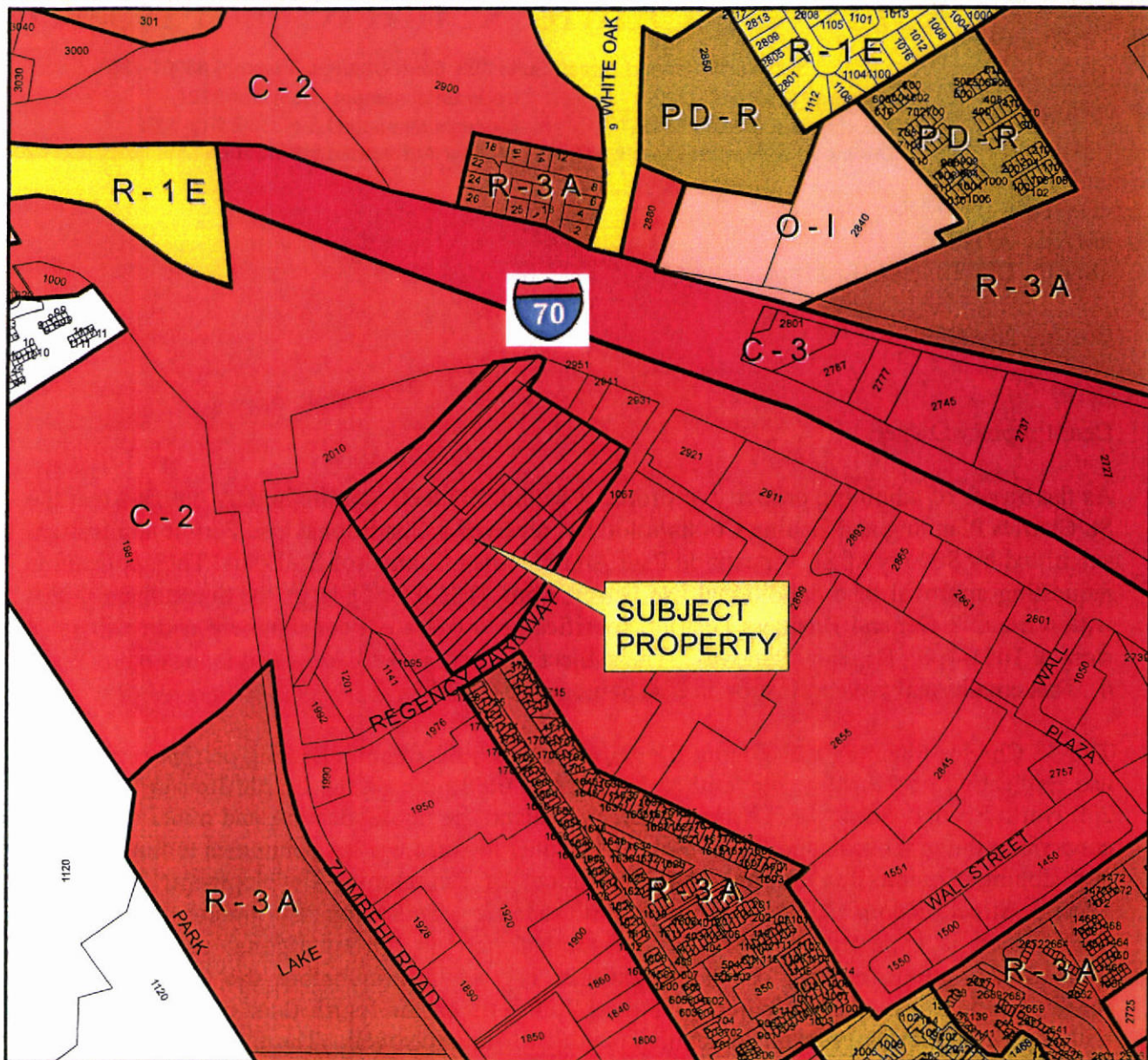
Motion to forward the conditional use application to the City Council with a favorable recommendation for secondhand sales use at 1069 Regency Parkway, subject to the conditions recommended by staff.



Picture 1: View of the applicant's storefront in Regency Square.



Picture 2: Closer view of the business which encompasses 3 units in the building.



Color Legend:

A	I-1	R-1C
C-1	I-2	R-1D
C-2	O-1	R-1E
C-3	OBP	R-2
CBD	PD-C	R-3A
CRD I	PD-I	R-M
CRD-II	PD-MU	ZONING PEN
FHCD	PD-R	
HCD	PD-RF	

Case No. CU-39-09. (Society of St. Vincent de Paul Archdiocesan Council of St. Louis). An application for a Conditional Use Permit from §156.033(C)(1)(g) for Secondhand Sales within the C-2 General Business District, specifically to operate a consignment and retail sales store at 1051-1083 Regency Parkway. The subject property is 4.83 acres and is located in Ward 6.

0 230 460 920 1,380 1,840 Feet

PLANNING AND ZONING
NOVEMBER 2009

By: CWL





DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Saint Charles, Missouri

200 North Second Street, Suite 303, Saint Charles, Missouri 63301-2851

Planning (636) 949-3222

Code Enforcement (636) 949-3227

Fax Number (636) 949-3557

Citizen's Message Line (636) 949-3502

On-line at www.stcharlescity.com

24 Hour Automated Information Line (636) 255-6200

«OWNER_NAME»

«MAIL_ADDR»

«MAIL_CITY» «MAIL_ZIP»

October 29, 2009

Dear Property Owner:

As the owner of adjoining property or property within 300 feet, you are hereby notified that the St. Charles Planning and Zoning Commission has received a Conditional Use Permit application, submitted by Society of St. Vincent de Paul Archdiocesan Council of St. Louis. The applicant is requesting approval of a conditional use permit from §156.033(C)(1)(g) for Secondhand Sales within the C-2 General Business District, specifically to operate a consignment and retail sales store at 1051-1083 Regency Parkway. The subject property is 4.83 acres and is located in Ward 6. This conditional use application is case number CU-39-09.

The St. Charles Planning and Zoning Commission will hold a public hearing on this conditional use application on **Monday, November 16, 2009 at 6:30 p.m.** on the fourth floor of City Hall, 200 North Second Street, St. Charles. You may attend the public hearing and make comments concerning the proposed conditional uses, or you may forward written comments to the Planning and Zoning Commission through the Department of Community Development, 200 North Second Street, Room 303, St. Charles, MO 63301. Following the public hearing, the Commission is expected to forward a recommendation on the conditional use to the City Council. A public hearing on the conditional use application before the City Council is scheduled for **Tuesday, December 1, 2009 at 7:00 p.m.** on the fourth floor of City Hall. You will have an opportunity to make comments at that hearing as well. The final decision on this conditional use permit will be made by the City Council.

All information regarding this conditional use application is available for public inspection in the office of the Department of Community Development, 200 North Second Street, Room 303, St. Charles, MO 63301. If you have questions regarding this letter or the referenced application, you may contact the Department of Community Development at 636-949-3222. In any communication regarding this matter, please refer to the case number given above.

Anne Burch, AICP
City Planner

PLANNING AND ZONING
CASE NO. CU-39-09
1057-1083 REGENCY PARKWAY
Property Owners Notified

OWNER NAME	MAIL_ADDR	MAIL_CITY	MAIL_ZIP
AEROBIC (MO) LLC	12647 ALCOSTA BLVD STE 500	SAN RAMON CA	94583-
BEF REIT INC	3776 S HIGH ST	COLUMBUS OH	43207-4012
BOTKIN RONALD W*BOTKIN FLORENCE V	1721 FOREST HILLS DR	ST CHARLES MO	63303-
BRIEGEL MARY LOU	1717 FOREST HILLS DR	ST CHARLES MO	63303
BRINKMANN ASSOCIATES	16650 CHESTERFIELD GROVE CT #1	CHESTERFIELD MO	63005-
FOREST HILLS OWNERS ASSOCIATION	1619 ROSEWALL DR	ST CHARLES MO	63303
GHNOULY THOMAS V	1730 FOREST HILLS DR	ST CHARLES MO	63303-3509
GOODWILLIE EDWARD J	1720 FOREST HILLS DR	ST CHARLES MO	63303-
GRAY MICHAEL D	1719 FOREST HILLS DR	ST CHARLES MO	63303-
HAKENEWERTH GREG*HAKENEWERTH ANNA K	1715 FOREST HILLS DR	ST CHARLES MO	63303-3510
HOLLANDER RANDY G	1716 FOREST HILLS DR	ST CHARLES MO	63303-3509
JACKSON NICHOLAS S	1710 FOREST HILLS DR	ST CHARLES MO	63303-
JORDAN JASON M	114 EMERALD ISLE LN	WENTZVILLE MO	63385-
LANDWEHR JANET	1712 FOREST HILLS DR	ST CHARLES MO	63303-3509
LANGDON THOMAS J*LANGDON ZOE D	1713 FOREST HILLS DR	ST CHARLES MO	63303-
MCKELVEY PARTNERSHIP LP	930 W 1ST ST STE 303	FORT WORTH TX	76102-2728
MCKELVEY RENTAL LLC	PO BOX 3525	MCKINNEY TX	75070-
MCKINNEY ALMA G	1722 FOREST HILLS DR	ST CHARLES MO	63303-3509
MCW-RD ZUMBEHL COMMONS LLC	PO BOX 790830	SANT ANTONIO TX	78279-0830
MEDLOCK GEORGINA L	1724 FOREST HILLS DR	ST CHARLES MO	63303-
OCHS MAXINE	1723 FOREST HILLS DR	ST CHARLES MO	63303-3510
R ROOF VI LLC	5847 SAN FELIPE ST STE 4650	HOUSTON TX	77057-3277
ROSE GERALD W*ROSE CINDI F	1708 FOREST HILLS DR	ST CHARLES MO	63303-
SCIORTINO ARLENE MARIE*SCIORTINO~ANTHONY J CO TRUSTEES	960 CAPE MARCO DR APT 1402	MARCO ISLAND FL	34145-6394
SIMON PROPERTY GROUP L P	PO BOX 6120	INDIANAPOLIS IN	46206-
SPENCE BRADLEY L	1726 FOREST HILLS DR	ST CHARLES MO	63303-
STULLER STEVE C	1728 FOREST HILLS DR	ST CHARLES MO	63303-3509
UMB PROPERTIES INC	PO BOX 419771	KANSAS CITY MO	64141
WALMART PROPERTIES INC	PO BOX 8050 MAILSTOP 0555	BENTONVILLE AR	72716-
WASIELEWSKI ZYGMUNT*SCHUBERT KAREN	1714 FOREST HILLS DR	ST CHARLES MO	63303
WATERWORKS INC	328 S OLD ORCHARD AVE	WEBSTER GROVES MO	63119-
ZUMBEHL DEV PARTNERS	2929 LENOX RD NE	ATLANTA GA	30324-2813



DEPARTMENT OF COMMUNITY DEVELOPMENT

200 North Second Street
Saint Charles, MO 63301
636-949-3227 FAX
636-949-3557

APPLICATION FOR CONDITIONAL USE

CASE # (assigned by Staff): CV 39-09 DATE FILED: 10-19-09

ADDRESS OF PROPERTY: 1051-1083 Regency Parkway, St. Charles, MO 63303

PROPERTY OWNER:

Zumbahl Development Partners c/o American Resurgens Management Corp., 2929 Lenox Road, Atlanta, GA 30324

Phone #404-364-3098 Fax: #404-261-0365 E-Mail: gcampbell@armcorp.com

APPLICANT:

Society of St. Vincent de Paul Archdiocesan Council of St. Louis, a Missouri benevolent corporation, 100 North Jefferson Avenue, St. Louis, Missouri 63103

Phone #314-566-2333 Fax #314-881-6087 E-Mail: JerryO@svdpstl.org

ZONING INFORMATION:

Property Zoned C-2 General Business District

LEGAL DESCRIPTION OF THE PROPERTY MUST BE ATTACHED - DIGITAL FORMAT PREFERRED

Present zoning: C-2 General Business District

Current use: Vacant

Proposal: Saint Vincent de Paul Thrift Store

Applicable section number or ordinance: Section 156.033 C-2 General Business District, sub-section

(C) (1) Conditional uses; Paragraph 1. Conditional use regulations.; item (g) Secondhand sales.

CONDITIONAL USE INFORMATION:

A request for a Conditional Use may be granted, upon a finding by the City Council that all of the following standards are met:

1. The public health, safety, morals, and general welfare will not be adversely affected.
2. The location shall be appropriate and not in conflict with the Comprehensive Plan.
3. The use shall not adversely affect the character of the neighborhood or neighborhood value.
4. The use shall not overtax the public utility systems.
5. The use shall not substantially increase traffic hazards or congestion.
6. The use shall be in compliance with the additional standards of Chapter 166: Zoning Code.

Fifteen copies of the following shall be submitted to the City Clerk at least 20 days prior to the scheduled meeting:

1. A complete application.
2. A complete site plan of the property and all structures located on the property. Including but not limited to:
 - a. The actual shape and dimension of the lot.
 - b. Any existing or proposed building, accessory building, and their locations upon the lot.
 - c. Any existing or proposed parking spaces, driveway entrances and exits, street, alleys, creeks, etc.
 - d. The existing and intended use of each building or part of a building.
 - e. Photos of existing structures.
 - f. Any other information with regard to the lot and neighboring lots as may be necessary.

* Depending on the specifics of the case, the applicant (s) maybe required to submit further information deemed necessary.

3. Signature by the legal owner or an attached affidavit by the legal owner authorizing City Council action.
4. Legal description of the property - digital format

preferred.

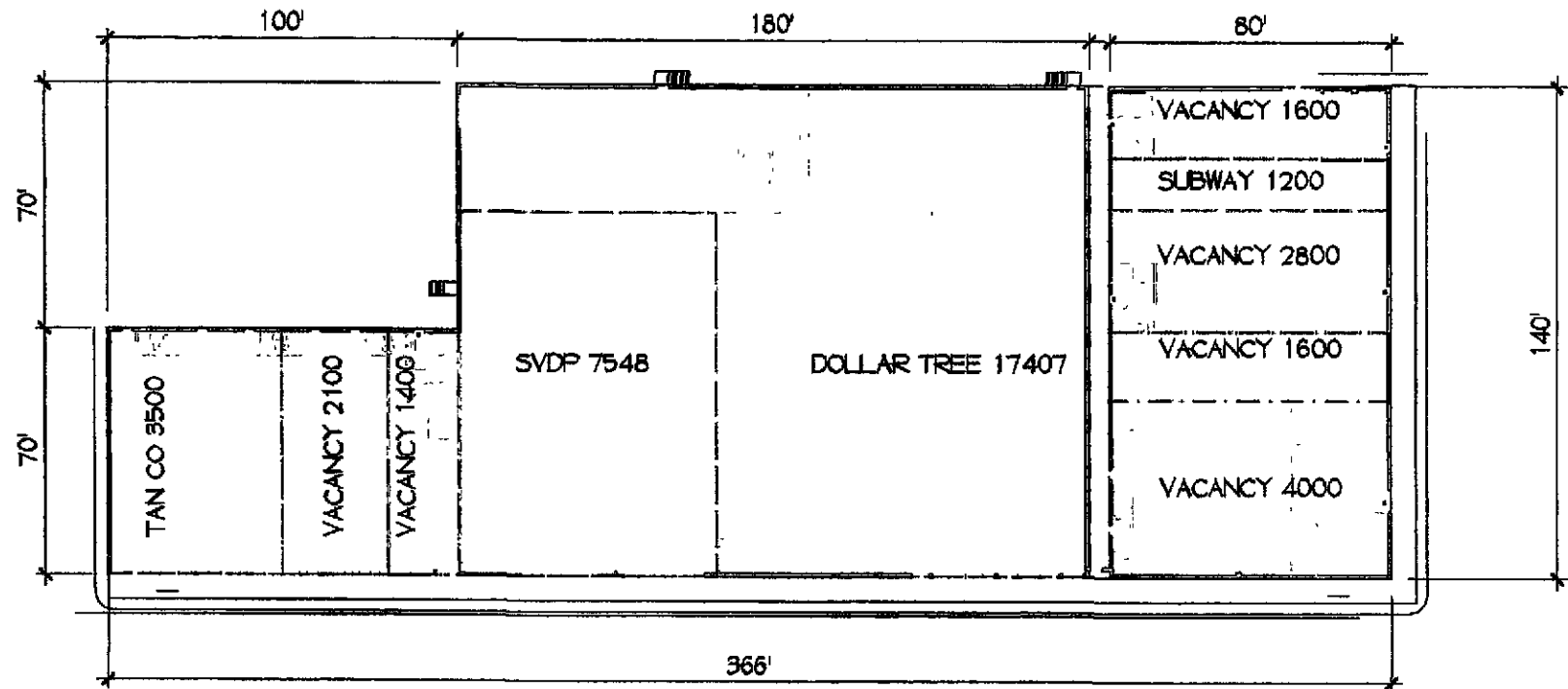
I (We), the undersigned, file this petition for a City Council action.

The above statements and the statements contained in all of the attached exhibits transmitted herewith are true, to the best of my knowledge.

Signature of the applicant: *Joseph Nardo* Date: 10/19/09

Signature of the property owners: *George Capobianco* Date: 10-15-09

2d.







4

LEGAL DESCRIPTION - REGENCY SQUARE

Tract 1: Parcel 1 of Regency Square, as recorded in Plat Book 26 page 93 and 94 of the St. Charles County Recorder's Office.

Tract 2: Parcel 3 of Regency Square as per plat thereof recorded in Plat Book 26 page 93 and 94 of the St. Charles County Records.

Tract 3: Non-exclusive Easement rights for ingress and egress over the streets and described as common facilities in the Declaration of Easements, Covenants and Restrictions recorded in Book 1065 page 1483, Supplement recorded in Book 1211 page 64 and First Amendment to Declaration of Easements, Covenants and Restrictions recorded in Book 2461 page 265.

RCA FORM (OFFICE USE ONLY)**Bill # N/A**

MEETING/DATE: 12/01/09

Regular(X) Special() Comm. of Whole()

ATTACHMENT: YES(X) NO()

Report(X) Resolution() Ordinance()

Request for Council Action

Ward # 1

Description: *Public Hearing: Conditional Use Permit Case No. CU-15-08:*
Approval of a revision to a previously approved Conditional Use Permit, specifically to extend the deadline for required parking lot improvements for an Automotive Repair and Body Work Facility at 2239 North Third Street.

Recommendation:	Staff -- Approve(X) Disapprove()
Board/Committee/Commission --	Approve (X) Disapprove ()

Summary:

On June 17, 2008, the City Council approved a conditional use permit for an automobile repair business and paint booth at 2239 North Third Street, listing a number of conditions of approval related to the operation and improvements of the property. The lot is located at the southwest corner of North Third Street and Barthel Avenue. Two of the conditions attached to the permit were as follows:

6. Submit a layout plan and details to the Community Development Department prior to review by the City Council for the following items:
 - a. Paving of existing parking lot and drive aisles
 - b. Parking space striping (to include handicap space) for employees and customers
 - c. Landscape plan between the existing building and the adjacent residential area and at the northeast corner near the intersection of both roads).
 - d. Provide a six (6) foot sight-proof fence between the existing structure and the alley along the west property line
8. Compliance with Items 6(a) and 6(d) above shall be completed within six months.

The City Council added conditions six (6) and eight (8) at the meeting. In January of 2009, staff presented to the Planning and Zoning Commission a request from the applicant to extend their deadline for improvements until June 17, 2009. The applicant has provided a letter outlining their process and reasons for requesting the additional time until the end of summer 2010. The applicant and property owner are also asking to slightly amend the location of the proposed screen fence along the west property line. Originally, it was proposed to extend further towards Barthel Avenue to provide a large area for screened storage.

The Planning and Zoning Commission held a public hearing on this conditional use application on November 16, 2009. The applicant spoke in favor of the application. After closing the public hearing, the Commission voted 7-2 to approve the conditional use permit and to forward the application to the City Council with a favorable recommendation. The approval is subject to three (3) conditions.

- STAFF RECOMMENDATION:

As noted above, Staff and the Planning and Zoning Commission have recommended approval subject to three (3) conditions. The conditions are as follows:

1. All required improvements for the exterior of the site (parking, landscaping, fencing, etc.) shall be completed by June 30, 2010.
2. If the required improvements are not completed by the established deadline, then the Community Development Department will begin the process to revoke the Conditional Use Permit for 2239 North Third Street.
3. All conditions from the original conditional use approval (June 17, 2008) for 2239 North Third Street shall be applied to this request (conditions #1 - #8).

Budget Impact: (revenue generated, estimated cost, CIP item, etc.) N/A

Account #

RCA prepared by: David Gipson Dept. Director DBE Director of Admin M. L. PCA

11/19/09

O:\AGENDA\AGENDA\120109\CU-15-08 Amendment RCA.doc

AGENDA ITEM # 6



MEMORANDUM

DATE: November 16, 2009

TO: Planning and Zoning Commission

FROM: Anne Burch, AICP
City Planner

SUBJECT: Conditional Use Permit CU-15-08
2239 North Third Street

On June 17, 2008, the City Council approved a conditional use permit for an automobile repair business and paint booth at 2239 North Third Street, listing a number of conditions of approval related to the operation and improvements of the property. The lot is located at the southwest corner of North Third Street and Barthel Avenue. Two conditions of approval were attached to the permit as follows:

6. *Submit a layout plan and details to the Community Development Department prior to review by the City Council for the following items:*
 - a. *Paving of existing parking lot and drive aisles*
 - b. *Parking space striping (to include handicap space) for employees and customers*
 - c. *Landscape plan between the existing building and the adjacent residential area and at the northeast corner near the intersection of both roads).*
 - d. *Provide a six (6) foot sight-proof fence between the existing structure and the alley along the west property line*
8. *Compliance with Items 6(a) and 6(d) above shall be completed within six months.*

The City Council added conditions six (6) and eight (8) at the meeting. In January of 2009, staff presented to the Planning and Zoning Commission a request from the applicant to extend their deadline for improvements until June 17, 2009. This second extension provided the applicant with a full year to complete the improvements from the time of the original approval. Following that revision, the property owner and applicant spent several months attempting to find the financing for the project. The Code Enforcement Division contacted the applicant since the

expiration date and staff has been working with the business to have something submitted for review. The applicant has provided a letter outlining their process and reasons for requesting the additional time until the end of summer 2010. The applicant and property owner are also asking to slightly amend the location of the proposed screen fence along the west property line. Originally, it was proposed to extend further towards Barthel Avenue to provide a large area for screened storage. Staff is agreeable with the new proposal that brings the fence line back to the building line and limits the amount of exterior storage. A revised site layout plan has been provided for review. The applicant is also working with the Public Works Department to vacate the adjacent alley to provide more area for storage; however, it is the applicant's burden to complete this process in order to take over complete ownership. Regarding amendments to conditions on a conditional use permit, the Zoning Order states as follows:

§156.248 (E) (3): The procedure for amendment of a conditional use permit already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application, except where the Department of Community Development determines the change to be minor, relative to the original approval, it shall transmit the same to the Planning and Zoning Commission, with the original record, without requiring that a new application be filed.

While staff understands that economic conditions that have prevented the improvements from being completed, the Community Development Department is not comfortable with extending the deadline until the end of the summer. Staff has listed a condition of approval that limits the extension until June 30, 2010. Pending City Council approval, this will give one last extension for approximately seven (7) months. Also, a condition has been added that states that if the required improvements have not been completed by this deadline, then the Community Development Department will begin the process to revoke the original Conditional Use Permit.

The Ordinance states that "The procedure for amendment of a conditional use already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application." Therefore, any change to the existing condition must be approved by the City Council, following a recommendation by the Planning and Zoning Commission. Staff recommends the following conditions of approval:

1. All required improvements for the exterior of the site (parking, landscaping, fencing, etc.) shall be completed by June 30, 2010 or sixty (60) days following the vacation of the alley, whichever comes first.
2. If the required improvements are not completed by the established deadline, then the Community Development Department will begin the process to revoke the Conditional Use Permit for 2239 North Third Street.
3. All conditions from the original conditional use approval (June 17, 2008) for 2239 North Third Street shall be applied to this request (conditions #1 - #8).

Recommended Motion

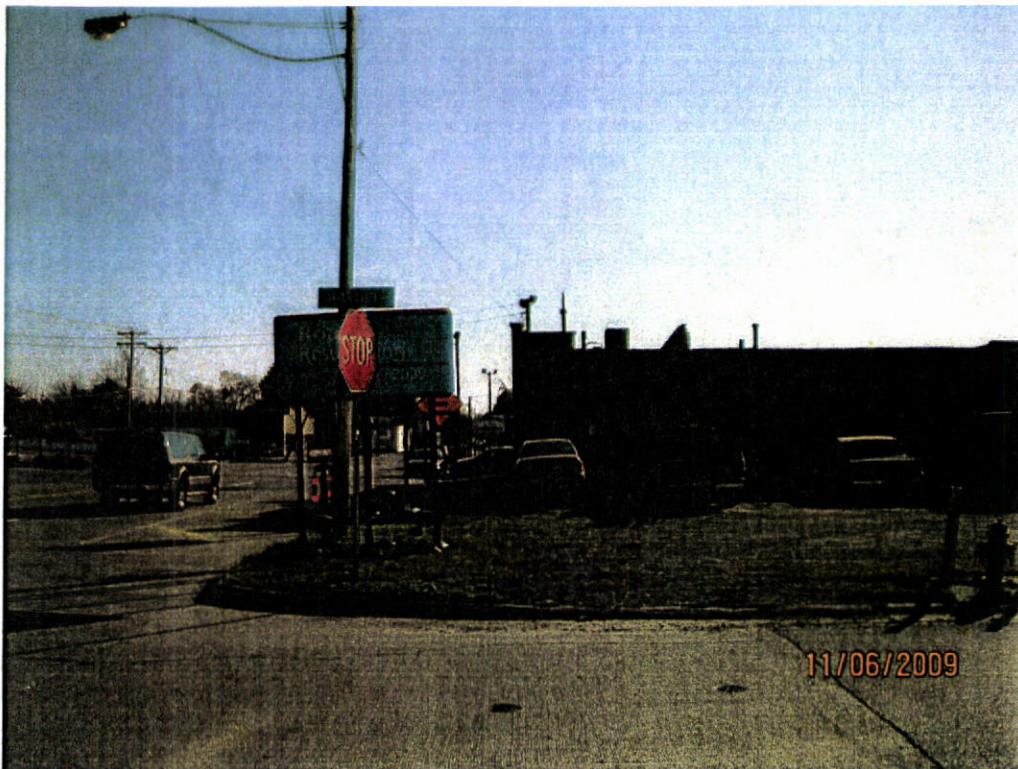
Motion to forward the conditional use revision request for 2239 North Third Street to the City Council with a favorable recommendation subject to the three (3) conditions of approval.



Picture 1: View of the garage area adjacent to the alley.



Picture 2: View of the subject property from Barthel Avenue.

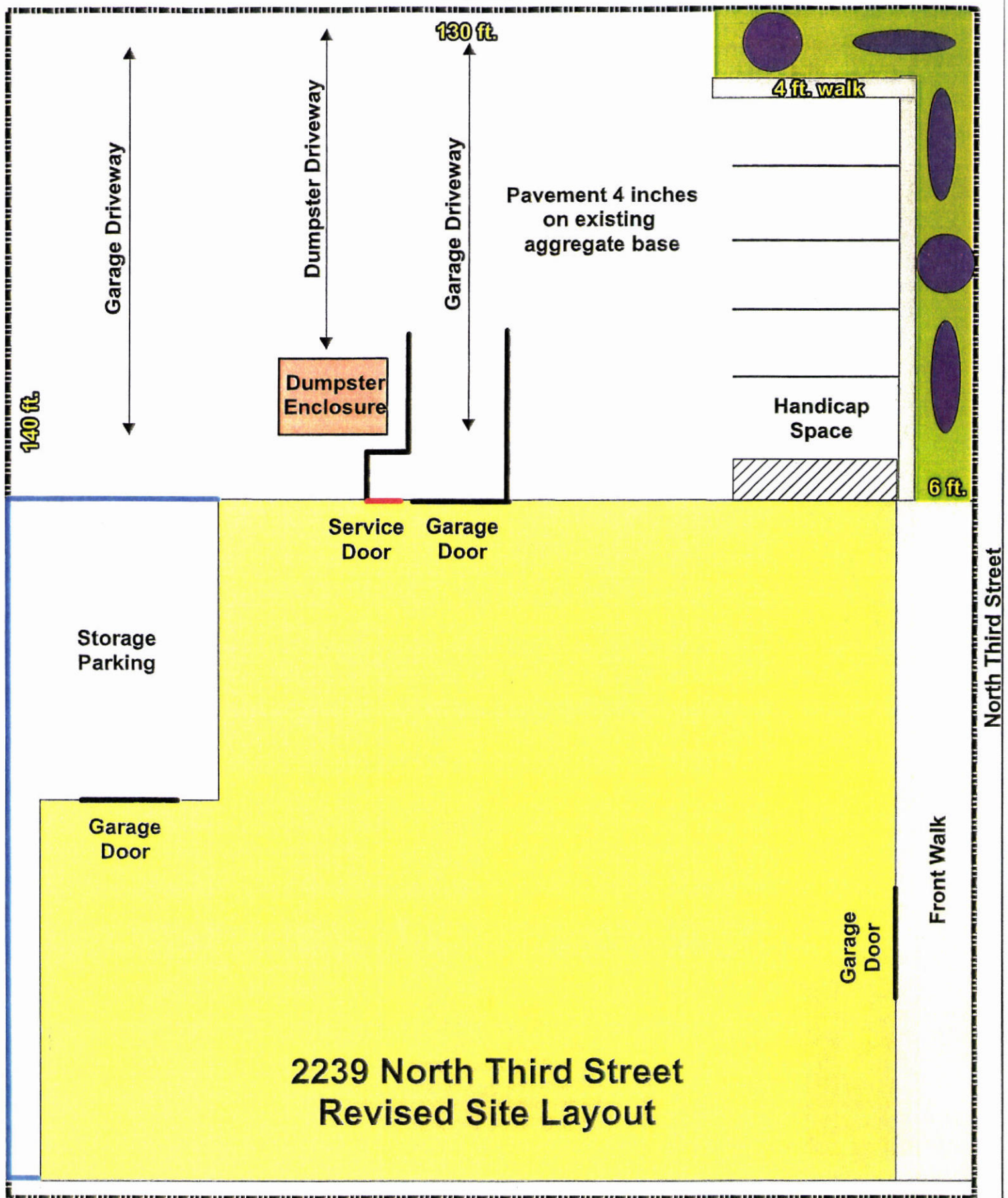


Picture 3: View of the northeast corner of the subject property at the intersection of Barthel Avenue and North Third Street.



Picture 4: View of the subject property facing southwest from Barthel Avenue.

Barthel Ave.



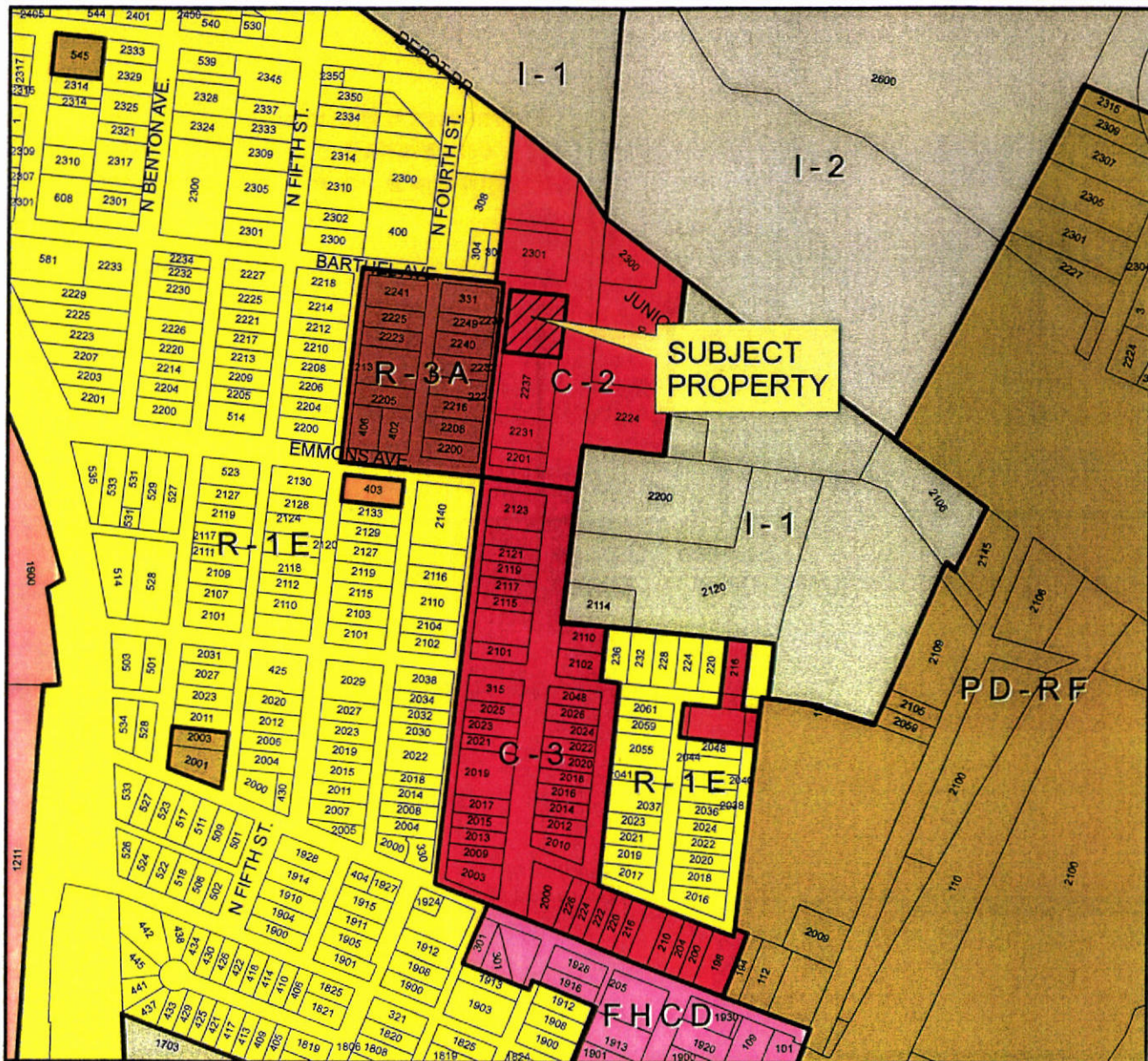
6 ft. Screen Fence (Vinyl or Wood)

New Shade Tree

Landscaping Buffer

New low-lying shrubs

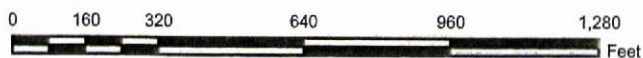




Color Legend:

A	I-1	R-1C
C-1	I-2	R-1D
C-2	O-I	R-1E
C-3	OBP	R-2
CBD	PD-C	R-3A
CRD I	PD-I	R-M
CRD-II	PD-MU	ZONING PEN
FHCD	PD-R	
HCD	PD-RF	

Case No. CU-15-08. (Dave's Auto Restoration/Crabtree Family Partnership) An application for a revision to a previously approved Conditional Use Permit from §156.033(C)(1)(e) within the C-2 General Business District, specifically to extend the deadline for required parking lot improvements for an Automotive Repair and Body Work Facility at 2239 North Third Street. The subject property is 0.42 acres and is located in Ward 1.



PLANNING AND ZONING
NOVEMBER 2009

By: CWL



D.J. Crabtree Family Partnership
701 Utz Lane
Hazelwood, MO 63042

Oct. 26th, 2009

Dear Council Members,

Unfortunately we are not in the position that we expected to be in at this point. All of the work that we did on this property and the delays that kept the tenant from operating for more than 6 months as we worked on the original Conditional Use Permit left both the owner and the tenant thousands of dollars in the hole. Although both parties felt that they would be able to recoup in time to make the original deadline for improvements that did not happen as expected.

Right after we got the approval of our Conditional Use permit is when the economy began to tank. Consequently the tenant fell behind immediately on rent and other obligations to the owner. Before the tenant was able to begin recovering he had gotten over \$15,000.00 in arrears. This tenant has done everything that we asked of him and has made all necessary repairs on the property since the Conditional Use first went into effect. He has maintained the grounds keeping it clear of debris and kept the grass and weeds cut. Because of his handling of us and the property, and the economic circumstances that are clearly not his fault, we have saw fit to continue working with him.

The tenant has worked hard to improve his position with us and currently has been floating between \$7,500-\$10,000 in arrears. So he has made up some ground, however he is heading into a slow part of the year for his business typically so for the next 5 to 6 months we expect that he will be fighting just to hold on to the ground that he has already gained.

The agreement between the tenant and the owner has always been that the tenant would pay half of the expenses for the required improvements. To make the necessary improvements in relation to the Conditional Use we need the tenant to catch up a bit more and be capable of paying his half of the improvements. If the economy were not in the desire straights that it is currently in we would not expect this problem. Because of these factors we are asking for an extension of the Conditional Use Permit until the end of the summer of 2010.

Further to save on some of the expenses we currently desire to reduce the length of the fencing. Originally we asked and it was approved that we would bring the fence out along the western property line to within 8' of the street and enclose a substantial portion of the lot. At this point tenant feels that he can make due for now by simply bringing the fence along the western property line until it reaches a point parallel to the NW corner of the building and then continuing the fence across from the western property line to the NW corner of the building.

SUBMITTED BY APPLICANT

One other benefit will come out of us having the extra time to work on the Conditional Use improvements. We pointed out an issue with the alley along our western property line when we made the request for the conditional use. The alley has not been maintained by the city since it was first laid out in the plot plan more than 50 years ago. Weeds grow in the alley in excess of 17'. We have finally been able to contact all of the adjacent property owners and they are all in agreement as to how we should deal with the alley.

We are currently talking with the Public Works department to get the alley vacated. If this is done it changes the western property line, which was already addressed in the original Conditional Use permit, as the council was aware of the possibility of the alley being vacated. We are a lot closer to getting this done now and the extra time will help us to know for sure what will happen with the alley which in the end effects the paving of our lot and where the fence will actually be placed as the western property line will move if the alley is vacated. From all initial discussions concerning the alley we believe that vacation is most probable.

Because of the factors that we have expressed above we respectfully request an extension on the deadline for required improvements according to the Condition Use permit until the end of the summer 2010. We also request to amend the length of the fencing as expressed above, to make it easier to meet the newly requested deadline and the current needs of the tenant. We also request that we be allowed at our discretion in the future to extend the fence as originally requested if we believe it is necessary for the tenant in the future.

Sincerely,

Wm. Patrick Crabtree

Wm. Patrick Crabtree
Agent for D. J. Crabtree Family Partnership



City of Saint Charles, Missouri

200 North Second Street • Saint Charles, Missouri 63301-2851
636) 949-3282 • Fax (636) 949-3286

City Clerk

June 26, 2008

David Fansin
1624 June Drive
St. Louis, MO 63138

RE: Conditional Use Permit – (Case No. CU-15-08)

Dear Mr. Fansin:

At the City Council Meeting held on June 17, 2008, the City Council of the City of Saint Charles, Missouri, approved a conditional use permit for the purpose of a Vehicle Restoration/Body Shop with associated Paint Booth at 2239 North Third Street.

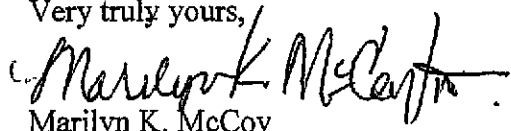
The following conditions were placed on the conditional use approval, as follows:

1. The conditional use permit is issued for the property at 2239 North Third Street only and is not transferable to another location.
2. No exterior storage of any equipment or unlicensed/inoperable vehicles shall be permitted on this site for this business, except as permitted by ordinance.
3. A separate sign permit is required for all proposed signage on the property.
4. General business hours are listed as Monday-Saturday 8:00 a.m. to 5:30 p.m.
5. All Code Enforcement issues shall be addressed prior to issuance of an Occupancy Permit for the business.
6. Submit a layout plan and details to the Community Development Department prior to review by the City Council for the following items:
 - a. Paving of existing parking lot and drive aisles
 - b. Parking space striping (to include handicap space) for employees and customers
 - c. Landscape plan between the existing building and the adjacent residential area and at the northeast corner near the intersection of both roads).
 - d. Provide a six (6) foot sight-proof fence along the west property line of the alley in the event the alley is vacated and that additional property is acquired.
7. If necessary, this conditional use permit may be revoked under Section 156.248 (E)(6) of the Zoning Ordinance.
8. Compliance with Items 6(a) and 6(d) above shall be completed within six months.

www.stcharlescity.com

HOME OF MISSOURI'S FIRST STATE CAPITOL

Very truly yours,

A handwritten signature in cursive script, appearing to read "Marilyn K. McCoy".

Marilyn K. McCoy
City Clerk

Cc: Bruce Evans, Director of Community Development

R:\LETTERS\conditionaluse\cu15-08.doc

Garage Driveway Aisle

Sight proof Fence 6' (six) feet
constructed of vinyl
or composite panel,
or wood.

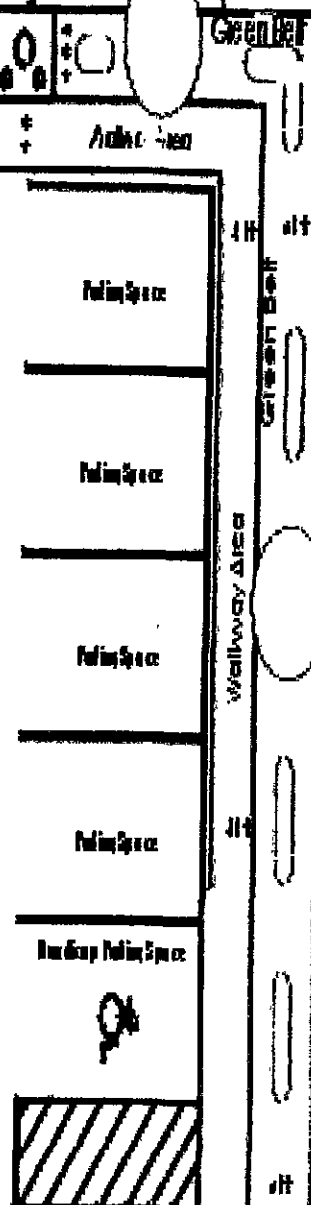
Pavement 4' (four) inches
on existing aggregate base.

Bumper Driveway Aisle

Garage Driveway Aisle

Driveway Aisle

Trash
Dumpster



6' Fence to 11A corner of building

6' Fence along Western Property Line

Storage
Parking

11A
corner
of building

Service
Door Garage Door

Building at 2239 N 3rd
Revised Layout



SUBMITTED BY APPLICANT



**Department of Community Development
Application for Conditional Use**

Case No. (assigned by staff): CU-15-08 Date Filed: 10/26/09

Address of Property: 2239 N. Third

Property Owner

Name: D. J. Crabtree Family Partnership

Address: 701 UTZ Lane Hazelwood MO 63042

Phone / Fax: 314 731-4484

Applicant

Name: Same

Address: _____

Phone / Fax: _____

Zoning Information

Legal description of the property must be attached. Digital format preferred.

Present zoning: C-2

Current use: Auto Body & Restoration

Proposal: Extension of time for previous request

Applicable section number or ordinance: _____

Conditional Use Information

A request for a Conditional Use may be granted, upon a finding by the City Council that all of the following standards are met:

1. The public health, safety, morals, and general welfare will not be adversely affected.
2. The location shall be appropriate and not in conflict with the Comprehensive Plan.
3. The use shall not adversely affect the character of the neighborhood or neighborhood value.
4. The use shall not overtax the public utility systems.
5. The use shall not substantially increase traffic hazards or congestion.
6. The use shall be in compliance with the additional standards of Chapter 156: Zoning Code.

Fifteen copies of the following shall be submitted to the City Clerk at least 20 days prior to the scheduled meeting:

1. A complete application.
2. A complete site plan and all structures located on the property. Including but not limited to the property.
 - a. The actual shape and dimension of the lot.
 - b. Any existing or proposed building, accessory building, and their locations upon the lot.
 - c. Any existing or proposed parking spaces, driveway entrances and exits, street, alleys, creeks, etc.
 - d. The existing and intended use of each building or part of a building.
 - e. Photos of existing structures.
 - f. Any other information with regard to the lot and neighboring lots as may be necessary. Depending on the specifics of the case, the applicant(s) may be required to submit further information deemed necessary.
3. A signature by the legal owner or an attached affidavit by the legal owner authorizing City Council action.
4. A legal description of the property. Digital format is preferred.

I (We), the undersigned, file this petition for a City Council action. The above statements and the statements contained in all of the attached exhibits transmitted herewith are true, to the best of my knowledge.

Signature of the Applicant: _____

Date: 10/26/09

Signature of the Property Owner: William P Crabtree agent for

Date: 10/26/09 D.J. Crabtree Family Partnership

Application Fee: \$150.00



DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Saint Charles, Missouri

200 North Second Street, Suite 303, Saint Charles, Missouri 63301-2851

Planning (636) 949-3222

Code Enforcement (636) 949-3227

Fax Number (636) 949-3557

Citizen's Message Line (636) 949-3502

On-line at www.stcharlescity.com

24 Hour Automated Information Line (636) 255-6200

«OWNER_NAME»

«MAIL_ADDR»

«MAIL_CITY» «MAIL_ZIP»

October 29, 2009

Dear Property Owner:

As the owner of adjoining property or property within 300 feet, you are hereby notified that the St. Charles Planning and Zoning Commission has received a Conditional Use Permit application, submitted by Dave's Auto Restoration/Crabtree Family Partnership. The applicant is requesting approval for a revision to a previously approved Conditional Use Permit from §156.033(C)(1)(e) within the C-2 General Business District, specifically to extend the deadline for required parking lot improvements for an Automotive Repair and Body Work Facility at 2239 North Third Street. The subject property is 0.42 acres and is located in Ward 1. This conditional use application is case number CU-15-08.

The St. Charles Planning and Zoning Commission will hold a public hearing on this conditional use application on **Monday, November 16, 2009 at 6:30 p.m.** on the fourth floor of City Hall, 200 North Second Street, St. Charles. You may attend the public hearing and make comments concerning the proposed conditional uses, or you may forward written comments to the Planning and Zoning Commission through the Department of Community Development, 200 North Second Street, Room 303, St. Charles, MO 63301. Following the public hearing, the Commission is expected to forward a recommendation on the conditional use to the City Council. A public hearing on the conditional use application before the City Council is scheduled for **Tuesday, December 1, 2009 at 7:00 p.m.** on the fourth floor of City Hall. You will have an opportunity to make comments at that hearing as well. The final decision on this conditional use permit will be made by the City Council.

All information regarding this conditional use application is available for public inspection in the office of the Department of Community Development, 200 North Second Street, Room 303, St. Charles, MO 63301. If you have questions regarding this letter or the referenced application, you may contact the Department of Community Development at 636-949-3222. In any communication regarding this matter, please refer to the case number given above.

Anne Burch, AICP
City Planner

PLANNING AND ZONING
CASE NO CU-15-08
2239 NORTH THIRD STREET
Property Owners Notified

OWNER_NAME	MAIL_ADDR	MAIL_CITY	MAIL_ZIP
BERTHOLD DAVID M*BERTHOLD SUSAN M	18 STEVEN BRENT CT	ST PETERS MO	63376-
BOSCHERT IMPLEMENT CO	340 GULLANE DR	ST CHARLES MO	63301-4489
CALLAHAN DONNA	2048 EISENBATH RD	OFALLON MO	63366-
CLAMPITT ELVA MARIE TRUST	30 TRUXTON RD	BELLFLOWER MO	63333-
CRABTREE D J FAMILY PARTNERSHIP LP	701 UTZ LN	HAZELWOOD MO	63042-
CROSS ENTERPRISES INC	3473 S RIDER TRL	EARTH CITY MO	63045-1110
CYRUS DEVELOPMENT LLC	701 N 5TH ST	ST CHARLES MO	63301-
DICKHERBER EUGENE*DICKHERBER~SALLY*SANFORD DAVID R L*ETA	24 SAN CARLOS DR	ST CHARLES MO	63303-
GIORDANO GENE	2507 MILLRACE DR	ST PETERS MO	63376-
HETZLER WAYNE D	910 N 3RD ST	ST CHARLES MO	63301-
LAVOISE ELIZABETH	302 BARTHEL AVE	ST CHARLES MO	63301-0926
LOVELESS CRAIG	2237 N 3RD ST	ST CHARLES MO	63301-
P & B REAL ESTATE LLC	5933 JACKSON AVE	ST LOUIS MO	63134-
PENTLAND WANDA L REVOCABLE TRUST	20 OLENDORF AVE	ST PETERS MO	63376-
PERKINS JOHN O REVOCABLE LIVING~TRUST	2345 N 5TH ST	ST CHARLES MO	63301-
SILVERBERG LOUIS*LEWIS KRISTIE	2908 WESTMINISTER DR	ST CHARLES MO	63301-
VAUGHN LEALON	304 BARTHEL ST	ST CHARLES MO	63301
WABASH RAILROAD COMPANY	110 FRANKLIN RD SE	ROANOKE VA	24042-0028
ZANDER RICHARD A*ZANDER SUSAN E	29 LAKE FOREST CT S	ST CHARLES MO	63301-
ZIEGER JOSEPH A*ZIEGER CAROLYN J	2201 N 3RD ST	ST CHARLES MO	63301-

RCA FORM (OFFICE USE ONLY)
MEETING/DATE: 12/01/09
Regular(X) Special() Comm. of Whole()
ATTACHMENT: YES() NO(X)
Report() Resolution() Ordinance(X)

Bill #

Request for Council Action

Ward #1

Description: *Public Hearing: Rezoning Case No. Z-19-09: Rezone property located at 2410 North Eighth Street from the R-1E Single-Family Residential District to the R-2 Two-Family Residential District.*

Recommendation: Staff -- Approve() Disapprove()
Board/Committee/Commission -- Approve () Disapprove ()

Summary:

On November 2, 2009, the property owner applied for three (3) variances from the Board of Adjustment relative to the proposed R-2 Two-Family Zoning District requested for the subject property. The Board of Adjustment denied all variances; therefore, the property would not meet the minimum requirements for the R-2 district and could not be rezoned. This application has been withdrawn.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.) N/A

Account #

RCA prepared by: David Gipson Dept. Director get Director of Admin MLH/DOA

O:\Agenda\120109\Rezone 2410 N 8th Street RCA

6.

BILLS FOR FINAL PASSAGE

7.

BILLS FOR INTRODUCTION

9.

CONSENT AGENDA

RCA FORM (OFFICE USE ONLY)**Bill #10013**

MEETING/DATE: 8/18/09

Regular(X) Special() Work Session()

ATTACHMENT: YES(X) NO()

Ordinance ()

Request for Council Action

Description: An Ordinance Amending Chapter 113 of the Code of Ordinances of the City of St. Charles, Missouri by Amending Sections 113.153, 113.19, 113.30, 113.35 and 113.40 to Reduce the License Tax for Electricity, Gas and Telephone; Eliminate the Refund of License Fees to Elderly Residents; and Provide Effective Dates Thereof.

Summary:

To help offset required increases in water and sewer rates, this ordinance will take advantage of the cell phone utility tax revenue to reduce the utility taxes for all residents and businesses. To help offset the reductions in revenue to the city, this bill eliminates special refunds for senior citizens but maintains the special refunds based on income and/or disability. It is appropriate that the tax be reduced through the use of additional utility tax revenue that was not anticipated.

By: Councilmember Dave BeckeringDate: 8/14/09

Sponsors: Dave Beckering, Richard Veit

An Ordinance Amending Chapter 113 of the Code of Ordinances of the City of St. Charles, Missouri by Amending Sections 113.02, 113.03, 113.15, 113.19, 113.30, 113.35 and 113.40 to Reduce the License Tax for Electricity, Gas and Telephone; Eliminate the Refund of License Fees to Elderly Residents; and Provide Effective Dates Thereof.

Be It Ordained by the City Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. Section 113.02 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows.

§ 113.02 Refund of Tax

(A) *Definition.* For the purposes of this section, an EXEMPT CONSUMER shall mean any consumer who owns or leases residential property located within the city, who occupies the same as his/her customary place of residence and who is ~~62 years of age or older, or is 60 years of age or older and receiving social security disability; and who is retired and living on income substantially equal to old age and survivors insurance and~~ or to whom the payment of such utility tax is a hardship. When any such residential property is owned or leased by two or more persons jointly, the requirement for exemption shall be deemed satisfied if any one of such owners or lessees is ~~62 years of age or older, or is 60 years of age or older and receiving social security disability; and is retired and living on income substantially equal to old age and survivors insurance and~~ or the payment of such utility tax is a hardship to that person.

(B) *Refund authorized* The amount of any license fee paid to the city by a person engaged in the business of selling, supplying or distributing electric service, gas service or telephone service on account of sales of such persons to an exempt consumer as herein defined for utility services rendered to such consumer's residence shall be refunded by the city directly to such exempt consumer. The refund shall include such fees paid since the beginning of the fiscal year during which the ~~exempt consumer attained the required age~~ hardship occurred or the consumer was certified by the Social Security Administration as totally disabled.

(C) *When authorized.* An exempt consumer may be granted a refund of the utility taxes they pay upon a showing of undue hardship or certification of disability.

(D) *Procedure.* From January 1 to July 31 of each year, any person claiming to be entitled to a refund pursuant to this section for taxes paid during the prior calendar year shall submit a request for such refund to the Office of the Mayor, together with such proof of claim as may be required by the Department of Finance. Such proof of claim may, at the discretion of the Department of Finance, include proof hardship, certification of disability, copies of utility bills and proof of payment of such bills.

~~(D)~~(E) *Investigation of application.* Upon application for refund of such utility taxes, the Mayor shall cause an investigation to be made to determine if such undue hardship or disability exists.

~~(E)~~(F) *Grant of exemption.* Upon affirmative recommendation of the Mayor, an exempt consumer may be granted a refund of all or part of utility taxes he shall have paid.

~~(F)~~(G) *Revocation.* Any such refund granted by the Mayor pursuant to divisions (A) through (E) above may be of a continuing nature and may be revoked upon a finding that such undue hardship or disability no longer exists.

~~(G)~~(H) *Benefit.* Nothing contained herein shall in any way alter or diminish the obligation of any persons, firm or corporation licensed pursuant to this code and any other ordinance of the city, to pay a license tax computed on the full amount of his gross sales to consumers within the city or otherwise to comply with the provisions of this code or any other ordinance of the city. The exemption herein provided shall inure to the benefit of exempt consumers only, and shall be administered by the city for their benefit.

~~(H)~~(I) *Funding.* Refunds herein required shall be paid from the general revenue funds of the city. Payment of this refund is subject to availability and the appropriation of funds in current year for this purpose.

SECTION 2. Section 113.03 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

~~§113.03~~ — LIMITATION ON ANNUAL REFUND OF LICENSE FEES.

Struck through text is deleted. Underlined text is inserted.

~~The total refund available to an exempt consumer pursuant to §§ 113.19 and 113.35 combined shall not exceed \$125 in a calendar year.~~

SECTION 3. Section 113.15 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

§ 113.15 LICENSE TAX — PAYMENT REQUIRED.

(A) Every person now or hereafter engaged in furnishing, distributing and supplying electricity for any purpose within the city shall pay to the city, as a license tax a sum equal to:

- (1) 8% of the gross receipts from such business;
- (2) Effective July 1, 2004, 7.8% of the gross receipts from such business;
- (3) Effective July 1, 2005, 7.6% of the gross receipts from such business;
- (4) Effective July 1, 2006, 7.4% of the gross receipts from such business;
- (5) Effective July 1, 2007, 7.2% of the gross receipts from such business;
- (6) Effective July 1, 2008, 7.0% of the gross receipts from such business;
- (7) Effective January 1, 2010, 6.5% of the gross receipts from such business;
- (8) Effective January 1, 2011, 6.0% of the gross receipts from such business;
- (9) Effective January 1, 2012, 5.5% of the gross receipts from such business.

(B) GROSS RECEIPTS means the aggregate amount of all sales and charges of the commodities or services herein described from the business of supplying electricity for compensation in city during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period. Gross receipts derived from the furnishing of such service to the city

shall not be included in gross receipts, nor shall any tax be due on such gross receipts.

SECTION 4. Section 113.19 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

~~§ 113.19 — REFUND OF ELECTRICITY LICENSE FEES INVOKED BY § 113.15 TO ELDERLY AND TOTALLY DISABLED RESIDENTS; REFUND PROCEDURE; REFUND COMPUTATION; BENEFIT AND FUNDING.~~

~~—— (A) — Refund authorized. The amount of any license fee paid to the city pursuant to § 113.15 by a person engaged in the business of furnishing, distributing and supplying electricity for light, heat, power and other purposes within the city on account of sales of such person to an exempt consumer as herein defined for utility services rendered to such consumer's residence shall be refunded by the city directly to such exempt consumer.~~

~~—— (B) — Definition. For the purpose of this section EXEMPT CONSUMER shall mean any consumer who owns or leases residential property within the city, who occupies the same as his/her customary place of residence and who, on the first day of any calendar month, is 62 years of age or older or certified as totally disabled by the Social Security Administration on said date. When any such residential property is owned or leased by two or more persons jointly, requirements for exemption shall be deemed satisfied if any one such owner or lessee is 62 years of age or older on the first day of such calendar month or certified as totally disabled under Social Security.~~

~~—— (C) — Procedure. From April 1 to May 31 of each year, any person claiming to be entitled to a refund pursuant to this section for taxes paid during the prior calendar year commencing April 1 and ending March 31 shall submit a request for such refund to the Office of the Mayor, together with such proof of claim as may be required by the Department of Finance. Such proof of claim may, at the discretion of the Department of Finance, include proof of age, copies of utility bills and proof of payment of such bills.~~

~~—— (D) — Computation. The amount of refund owing to each exempt consumer shall be the amount of the license tax imposed by the city's Code of Ordinances as a result of such consumer's payments during the preceding calendar year calculated from April 1 to March 31 for utility services rendered to his residence.~~

~~—— (E) — Benefit. Nothing contained herein shall in any way alter or diminish the obligations of any person licensed pursuant to § 113.15, to pay a license tax computed on the full amount of their gross sales to consumers within the city, or to otherwise to comply with the provisions of this code. The exemption herein provided shall inure to the benefit of exempt consumer only, and shall be administered by the city for their benefit.~~

~~—— (F) — Funds. Refunds herein required to be made shall be paid from budgeted general revenue monies. Payment of this refund is subject to availability of funds being budgeted in the current year for this purpose.~~

SECTION 5. Section 113.30 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

§ 113.30 LICENSE TAX — PAYMENT REQUIRED.

(A) Every person now or hereafter engaged in furnishing, distributing and supplying natural or manufactured gas or any combination thereof for light, heat, power and other purposes within the city shall pay the city as a license tax a sum equal to:

- (1) 8% of the gross receipts from such business;
- (2) Effective July 1, 2004, 7.8% of the gross receipts from such business;
- (3) Effective July 1, 2005, 7.6% of the gross receipts from such business;
- (4) Effective July 1, 2006, 7.4% of the gross receipts from such business;
- (5) Effective July 1, 2007, 7.2% of the gross receipts from such business,
- (6) Effective July 1, 2008, 7.0% of the gross receipts from such business;
- (7) Effective January 1, 2010, 6.5% of the gross receipts from such business;
- (8) Effective January 1, 2011, 6.0% of the gross receipts from such business;
- (9) Effective January 1, 2012, 5.5% of the gross receipts from such business.

SECTION 6. Section 113.35 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

~~**§ 113.35 — REFUND OF GAS LICENSE FEES INVOKED BY § 113.30 TO ELDERLY AND TOTALLY DISABLED RESIDENTS; REFUND PROCEDURE; REFUND COMPUTATION; BENEFIT AND FUNDING.**~~

~~(A) — Refund authorized. The amount of any license fee paid to the city pursuant to § 113.30 by a person engaged in the business of furnishing, distributing and supplying natural or manufactured gas or any combination thereof for light, heat, power and other purposes within the city on account of sales of such person to an exempt consumer as herein defined for utility services rendered to such consumer's residence shall be refunded by the city directly to such exempt consumer.~~

~~(B) — Definition. For the purpose of this section, EXEMPT CONSUMER shall mean any consumer who owns or leases residential property located within the city, who occupies the same as his/her customary place of residence and who, on the first day of any calendar month, is 62 years of age or older or certified as totally disabled by the Social Security Administration on said date. When any such residential property is owned or leased by two or more persons jointly, requirements for exemption shall be deemed satisfied if any one such owner or lessee is 62 years of age or older on the first day of such calendar month or certified as totally disabled under Social Security.~~

~~(C) — Procedure. From April 1 to May 31 of each year, any person claiming to be entitled to a refund pursuant to this section for taxes paid during the prior year commencing April 1 and ending March 31 shall submit a request for such refund to the Office of the Mayor, together with such proof of claim as may be required by the Department of Finance. Such proof of claim may, at the discretion of the Department of Finance, include proof of age, copies of utility bills and proof of payment of such bills.~~

~~(D) — Computation. The amount of refund owing to each exempt consumer shall be the amount of the license tax imposed by the city's Code of Ordinances as a result of such consumer's payments during the preceding year calculated from April 1 to March 31 for utility services rendered to his residence.~~

~~(E) — Benefit. Nothing contained herein shall in any way alter or diminish the obligations of any person licensed pursuant to § 113.30, to pay a license tax computed on the full amount of their gross sales to consumers within the city, or otherwise to comply with the provisions of this code. The exemption herein provided shall inure to the benefit of exempt consumer only, and shall be administered by the city for their benefit.~~

~~(F) — Funds. Refunds herein required to be made shall be paid from budgeted general revenue monies. Payment of this refund is subject to availability of funds being budgeted in the current year for this purpose.~~

SECTION 7. Section 113.40 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

§ 113.40 LICENSE TAX — PAYMENT REQUIRED.

(A) Every person, firm, company or corporation now or hereafter engaged in the business of furnishing exchange telephone service in the city shall pay the city as a license tax a sum equal to:

Struck through text is deleted. Underlined text is inserted.
--

- (1) 8% of the gross receipts from such business;
- (2) Effective July 1, 2004, 7.8% of the gross receipts from such business,
- (3) Effective July 1, 2005, 7.6% of the gross receipts from such business;
- (4) Effective July 1, 2006, 7.4% of the gross receipts from such business;
- (5) Effective July 1, 2007, 7.2% of the gross receipts from such business;
- (6) Effective July 1, 2008, 7.0% of the gross receipts from such business;
- (7) Effective January 1, 2010, 6.5% of the gross receipts from such business,
- (8) Effective January 1, 2011, 6.0% of the gross receipts from such business;
- (9) Effective January 1, 2012, 5.5% of the gross receipts from such business.

SECTION 8. It is the intention of the city council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of St. Charles, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 9 This ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Larry Muench, Presiding Officer

Date Approved by Mayor

Patricia M. York, Mayor

Approved as to Form:

Attest:


Michael J. Valenti, City Attorney

8/27/09
Date

City Clerk

Utility Tax

History

<u>Year</u>	<u>Rate</u>	<u>Revenue</u>	<u>Low Inc Rebate</u>	<u>Sr. Rebate</u>	<u>Cell Phone</u>	<u>Net</u>
2004	8.0%	\$6.147M	\$45.2K	-0-	-0-	\$6.1M
2005	7.8%	\$6.222M	\$48.2K	-0-	-0-	\$6.1M
2006	7.4%	\$6.293M	\$63.5K	\$116.9K	-0-	\$6.1M
2007	7.2%	\$6.358M	\$60.6K	\$231.6K	-0-	\$6.1M
2008	7.0%	\$6.162M	\$42.3K	\$317.1K	\$4.777M	\$10.6M
2009	7.0%	\$6.038M(1)	\$35.6K(2)	\$306.5K	\$2.325M(3)	\$8.0M

Projected

To date

Projected and includes T-Mobile under protest payment

Proposed

<u>Year</u>	<u>Rate</u>	<u>Revenue</u>	<u>Low Inc Rebate</u>	<u>Sr. Rebate</u>	<u>Cell Phone(1)</u>	<u>Net</u>
2010	6.5%	\$5.77M (2)	\$70.0K	-0-	\$295.1K	\$6.0M
2011	6.0%	\$5.491M(2)	\$75.0K	-0-	\$584.3K	\$6.0M
2012	5.5%	\$5.184M(2)	\$80.0K	-0-	\$896.0K	\$6.0M

Utilizes \$1.9M from 2009 to balance net

Conservative estimate of 3% growth per year in utility cost base